



House of Representatives

General Assembly

File No. 116

February Session, 2008

Substitute House Bill No. 5582

House of Representatives, March 20, 2008

The Committee on Banks reported through REP. BARRY of the 12th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING RECORDING OF MORTGAGE RELEASES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 49-8 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2008*):

3 (a) The mortgagee or a person authorized by law to release the
4 mortgage shall execute and deliver a release to the extent of the
5 satisfaction tendered before or against receipt of the release: (1) Upon
6 the satisfaction of the mortgage; (2) upon a bona fide offer to satisfy the
7 mortgage in accordance with the terms of the mortgage deed upon the
8 execution of a release; (3) when the parties in interest have agreed in
9 writing to a partial release of the mortgage where that part of the
10 property securing the partially satisfied mortgage is sufficiently
11 definite and certain; or (4) when the mortgagor has made a bona fide
12 offer in accordance with the terms of the mortgage deed for such
13 partial satisfaction on the execution of such partial release.

14 (b) The plaintiff or the plaintiff's attorney shall execute and deliver a

15 release when an attachment has become of no effect pursuant to
16 section 52-322 or section 52-324 or when a lis pendens or other lien has
17 become of no effect pursuant to section 52-326.

18 (c) The mortgagee or a person authorized by law to release the
19 mortgage shall not record a release required by subsection (a) of this
20 section in the land records. The mortgagee shall, no later than sixty
21 days after the date of execution of the release, or the receipt of
22 proceeds in satisfaction or partial satisfaction of the loan, whichever is
23 earlier, deliver the release as directed by the attorney or such other
24 party from which the mortgagee received payment in satisfaction or
25 partial satisfaction of the mortgage, as the case may be. The plaintiff or
26 the plaintiff's attorney [, as the case may be,] shall execute and deliver
27 a release [within] required by subsection (b) of this section no later
28 than sixty days [from] after the date a written request for a release of
29 such encumbrance (1) was sent to such [mortgagee,] plaintiff or
30 plaintiff's attorney at the person's last-known address by registered or
31 certified mail, postage prepaid, return receipt requested, or (2) was
32 received by such [mortgagee,] plaintiff or plaintiff's attorney from a
33 private messenger or courier service or through any means of
34 communication, including electronic communication, reasonably
35 calculated to give the person the written request or a copy of it. The
36 mortgagee or plaintiff shall be liable for damages to any person
37 aggrieved at the rate of two hundred dollars for each week after the
38 expiration of such sixty days up to a maximum of five thousand
39 dollars or in an amount equal to the loss sustained by such aggrieved
40 person as a result of the failure of the mortgagee or plaintiff or the
41 plaintiff's attorney to execute and deliver a release in accordance with
42 this subsection, whichever is greater, plus costs and reasonable
43 attorney's fees.

44 Sec. 2. Subsection (b) of section 49-8a of the general statutes is
45 repealed and the following is substituted in lieu thereof (*Effective*
46 *October 1, 2008*):

47 (b) [If a mortgagee fails to execute and deliver a release] The

48 mortgagee shall execute and deliver a release of mortgage [to the
 49 mortgagor or to the mortgagor's designated agent within sixty days
 50 from receipt by the mortgagee of] as directed by the attorney or such
 51 other party from which the mortgagee received proceeds in payment
 52 of the mortgage loan (1) in accordance with the payoff statement
 53 furnished by the mortgagee, or (2) if no payoff statement was provided
 54 pursuant to a request made under section 49-10a of the 2008
 55 supplement to the general statutes, in accordance with a good faith
 56 estimate by the mortgagor of the amount of the unpaid balance on the
 57 mortgage loan using (A) a statement from the mortgagee indicating
 58 the outstanding balance due as of a date certain, and (B) a reasonable
 59 estimate of the per diem interest and other charges due. The release
 60 shall be so delivered no later than sixty days from the execution of the
 61 release or the mortgagee's receipt of proceeds in payment of the
 62 mortgage loan, whichever is earlier. The mortgagee shall not record
 63 the release of the mortgage in the land records. If the mortgagee
 64 violates any provision of this subsection, the mortgagee shall be liable
 65 for damages to any person aggrieved at the rate of two hundred
 66 dollars for each week after the expiration of such sixty days up to a
 67 maximum of five thousand dollars or in an amount equal to the loss
 68 sustained by such aggrieved person as a result of the failure of the
 69 mortgagee to execute and deliver a release, whichever is greater, plus
 70 costs and reasonable attorney's fees. In addition, any attorney-at-law or
 71 duly authorized officer of either a title insurance company or an
 72 institutional payor may, on behalf of the mortgagor or any successor in
 73 interest to the mortgagor who has acquired title to the premises
 74 described in the mortgage or any portion thereof, execute and cause to
 75 be recorded in the land records of each town where the mortgage was
 76 recorded, an affidavit which complies with the requirements of this
 77 section.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2008	49-8
Sec. 2	October 1, 2008	49-8a(b)

BA *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5582*****AN ACT CONCERNING RECORDING OF MORTGAGE RELEASES.*****SUMMARY:**

This bill prohibits lenders, or others legally authorized to release a mortgage, from recording a mortgage release in town land records. Instead, the lender must deliver the release as directed by the party who provided the payment to satisfy mortgage. The release must be delivered no later than the earlier of 60 days from (1) the day the release is executed or (2) the release of proceeds in satisfaction or partial satisfaction of the loan.

Current law does not require lenders to record a release on the land records. It requires lenders to execute and deliver a mortgage release within 60 days after (1) a written request was sent to their last-known address by registered or certified mail, return receipt requested or (2) they received the request from a private messenger or courier service or through any other means of communication reasonably calculated to give the written request or a copy of it. The bill limits this requirement to plaintiffs or plaintiffs' attorneys in the case of a lien or attachment.

The bill specifies that the release must be delivered and executed as directed by the person providing the mortgage proceeds, and cannot be recorded on the land records, within the 60-day period and (1) in accordance with the payoff statement provided by the lender and (2) if no statement was provided, in accordance with the borrower's good faith estimate. The bill provides that a lender who fails to comply is liable for damages to any aggrieved person in the amount that is the greater of (1) \$200 for each week after the end of the 60-day period, up

to \$5,000 or (2) the loss sustained by the person as a result of the failure to execute and deliver the release. The lender is also liable for costs and reasonable attorney's fees.

EFFECTIVE DATE: October 1, 2008

COMMITTEE ACTION

Banks Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/04/2008)